

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11311 of 2023

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Jawahar Lal Yadav Son of Hari Kisun Yadav, Resident at Village- Paut, P.O.-
Agarsanda, P.S.- Arrah Muffasil, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Engineer-in-Chief, Rural Works Department, Government of Bihar, Patna.
4. The Superintending Engineer, Work Zone, Sasaram, Rural Works Department, Government of Bihar.
5. The Technical Secretary to the Engineer in Chief, Rural Works Department, Bihar, Patna.
6. The Chief Engineer-1, Rural Works Department, Bihar, Patna.
7. The Chief Engineer-4-cum- Nodal Officer, 3054, Rural Works Department, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ashish Giri, Advocate Ms. Riya Giri, Advocate Mr. Sumit Kumar Jha, Advocate
For the Respondent/s	:	Mr. Raghwanand (GA 11) Mr. Prabhat Kumar, AC to GA 11

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

4 14-09-2023 In the instant petition, petitioner has prayed for the
following reliefs:-

*"(i) To issue a writ/ order/ direction
in the nature of certiorari to set aside order
contained in Memo No.3420 dt. 28.06.2023
issued under the signature of Engineer-in-
chief, Rural Works Department by which the
petitioner has been disqualified from the*



technical bid for the reason that the character certificate submitted by the petitioner in the tender provides that Dhangai P.S. Case No. 72/2013 dated 14.12.2013 is pending against the petitioner in which charge-sheet No. 38/2014 dated 16.05.2014 has been submitted and the same is pending before the Honb'ble Court, therefore, as per Clause - 34 of the NIT, the technical bid of the petitioner is declared disqualified in relation to Package No. MR-N/22-23 Bikramganj/07 at Sl. No. 3.

(ii) To hold and declare that the action of Respondent authorities in disqualifying the petitioner vide Memo No.3420 dt. 28.06.2023 issued under the signature of Engineer-in-chief, Rural Works Department from technical bid is arbitrary, malafide, perverse and not sustainable in the eye of law.

(iii) To issue a writ/ order/ direction in the nature of Mandamus, directing the respondents authorities to declare the petitioner technically qualified in relation to the present NIT in relation to Work Division, Bikramganj bearing Package No. MR-N/22-23 Bikramganj/07 at Sl. No. 3 issued by the Respondent Rural Work Department and further for opening of financial bid of the petitioner prior to finalizing the tender.

(iv) To issue a writ/ order/ direction in the nature of Mandamus, directing the respondent authorities to not declare the petitioner technically disqualified in relation to the present NIT in relation to Work Division, Bikramganj bearing Package No. MR-N/22-23 Bikramganj/08 at Sl. No. 4 issued by the Respondent Rural Work Department on the ground of character certificate submitted by the petitioner being not in accordance with clause 34 of the NIT and further for opening of financial bid of the petitioner prior to finalizing the tender.



(v) *To pass interim /exparte interim direction to the respondents to consider the financial bid of the petitioner subject to the result of the present writ application. And/or order restraining the respondents from finalizing the tender in question and/or no final contract be awarded in relation to Work Division, Bikramganj bearing Package No. MR-N/22-23 Bikramganj/07 at Sl. No. 3 & Package No. MR-N/22-23 Bikramganj/08 at Sl. No. 4 issued by the Respondent Rura Work Department.*

(vi) *To issue a writ/ order/ direction in the nature of Mandamus directing the respondents authorities to let the petitioner participate in the financial bid.*

(vii) *Alternatively to issue writ/order/direction in the nature of certiorari to set aside the letter No. 489 dated 28.01.2021 issued under the signature of Secretary, Rural Works Department, Bihar, Patna under the garb of which the technical bid of the petitioner has been rejected as being ultra-vires Article 19 (1) (g) of the Constitution of India.*

(viii) *To any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case.*

2. During pendency of the present petition, later development is also questioned by means of interlocutory application nos. 1 of 2023 and 2 of 2023. The same are hereby disposed of reserving liberty to the petitioner to file a fresh petition.

3. Insofar as reliefs sought in the present petition are concerned, learned counsel for the respective parties, on



instruction, submitted that the present matter is covered by the decisions passed in C.W.J.C. No.9710 of 2023 decided on 21.08.2023 (Jawahar Lal Yadav vs. The State of Bihar and Others) and C.W.J.C.No. 11048 of 2023 decided on 30.08.2023 (Jawahar Lal Yadav vs. The State of Bihar and Others). Therefore, in terms of the aforementioned orders, the present writ petition stands allowed and the impugned order dated 28.06.2023 is set aside.

4. At this juncture, learned counsel for the petitioner requested this Court to give him liberty to approach the concerned authority instead of filing of another writ petition in the light of I.A. Nos. 1 of 2023 and 2 of 2023. The petitioner is at liberty to approach the concerned authority to take note of decisions of this Court including the present one and take appropriate action within of period of three months from the date of receipt of this order.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

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